

**REMARKS**

**Formalities**

With this Amendment, Applicants cancel claims 18 and 19. Therefore, claims 1-17 and 20-28 are all the claims currently pending in this Application. Claims 4, 7-12, and 15-17 stand withdrawn; therefore, claims 1-3, 5, 6, 13, 14, and 20-28 are all the claims currently under consideration.

In the current Office Action, the Examiner acknowledges Applicants' claim to foreign priority and the receipt of the certified copy of the priority document. The Examiner also returns signed and initialed copies of the substitute forms PTO-SB-08 submitted with the IDSs of March 21, 2004, July 6, 2005, and January 31, 2006.

**Claim Rejections — §103(a)**

Claims 1, 2, 3, 5, 6, 13, 14, 18, 20, 22, 23, 26, and 27 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Hitachi (EP 1253787), in view of Sato (U.S. Patent No. 5,042,921) and Lambert (U.S. Patent No. 6,288,815). Claims 21 and 28 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Hitachi, in view of Sato, Lambert, and English (U.S. Patent No. 6,877,865). Applicants respectfully traverse these rejections.

With this Amendment, Applicants amend claim 1 to include the limitations of claim 19. Applicants submit that none of the cited combinations of references teaches or suggests a scrolling unit including first and second spiral lens disks, disposed apart from each other and each including at least one cylindrical lens cell that is spirally arranged and a glass rod installed between the first and second spiral lens disks, as recited in claim 1. Further, Applicants submit

that claims 2, 3, 5, 6, 13, 14, 20-23, and 26-28 are patentable at least by virtue of their dependence on claim 1.

Applicants respectfully request that the §103(a) rejections be reconsidered and withdrawn.

### **Claim Rejections — Obviousness-type Double Patenting**

Claims 1, 2, 3, 5, 6, 13, 18-20, and 22-25 stand provisionally rejected under the judicially-created doctrine of obviousness-type double patenting over claims 6, 18, and 19 of U.S. Application No. 10/862,906.

Without commenting on the substantive merits of the Examiner's rejection, but instead to expedite prosecution of the present Application, Applicants are submitting herewith a terminal disclaimer to obviate the above-noted obviousness-type double patenting rejections.

As noted in *Quad Environmental Technologies*, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting and raises neither presumption nor estoppel on the merits of the rejection. It is improper to convert this simple expedient of "obviation" into an admission or acquiescence or estoppel on the merits.<sup>1</sup>

### **Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

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<sup>1</sup> *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ.2d 1392, 1394, 1395 (Fed. Cir. 1991).

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Application 10/801,138

Q74874

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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WASHINGTON OFFICE

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